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ABSTRACT

This study examines whether the State of Louisiana showed good faith compliance with the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964 as amended. This audit examines the following areas in the State of Louisiana: (1) educational equity, equality, and adequacy; (2) equal ethnic and gender employment and educational opportunity; and (3) the impact of consent decree programs on Louisiana State universities. Evidence suggests that since 1966 the State of Louisiana and its agents have not provided equal educational opportunity for students in its higher education system and, in fact, have no intention of complying with Title VI of the Civil Rights Act. It is recommended that the federal court assume immediate responsibility for the day to day operation of the Louisiana Higher Education System and appoint a court master or system chancellor to identify appropriate staff from within and without the State for purposes of working with the Trustee, Southern University System, Louisiana State University, and university presidents to formulate operational plans leading to the elimination of the various boards. Appendices include data on the gross institutional budgets, consent decree funding, and enrollment trends for historically black universities in the State. Contains 18 literature references, and 21 references to case law. (GLR)

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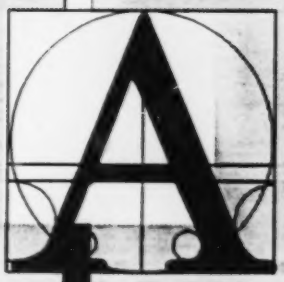

AFFIRMATIVE ACTION

A Compliance Audit of Higher Education in Louisiana

Robert Hashway Ph.D.
Professor of Education

Karen Sue Cain
Senior Research Associate
Educational
Research
Quarterly

Grambling State
University
Grambling, LA &1245

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AFFIRMATIVE ACTION

A Compliance Audit Of The Louisiana Public Higher Education System

Professor Robert M. Hashway, Ph.D.
Educational Research Quarterly

With The Assistance Of

Karen Sue Cain
Senior Research Associate
Educational Research Quarterly

Grambling State University
Grambling, Louisiana 71245

4 January 1992

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EXECUTIVE SUMMARY

In January 1969 the Department of Health, Education and Welfare concluded that the State of Louisiana violated Title VI of the Civil Rights Act of 1964 (cf. 42 U.S.C. § 2000d et seq.) by operating a racially segregated system of higher education and requested the submission of a desegregation plan within 120 days or less. Noncompliance on the part of the State of Louisiana was an act of deference to the constitution and the rights afforded all citizens of the United States. On March 14, 1974 the United States Attorney General attempted to enforce the provisions of the Fourteenth Amendment to the Constitution and Title VI of the Civil Rights Act (cf. *United States of America v. State of Louisiana, et al*, U.S.D.C., 80-3300 §A).

Noncompliance with Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.* (1982), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982) has severe consequences for the State of Louisiana, all institutions (higher education and otherwise), all students (enrolled in public higher education, private higher education or public schools) and all citizens of the State of Louisiana because *Adams* and subsequent cases have alleged improper grants of federal funds in violations of statutes mentioned above, regulations and executive orders (*Adams v. Bennett*, 675 *F. supp.* 688, D.D.C., 1987; *Adams v. Richardson*, 480 F. 2d. 1159, D.C. Cir 1973, affirming 356, *F. supp.* 922, D.D.C., 1973; *Adams v. Weinberger*, 391 *F. supp.* 269, D.C.C. 1977; *Adams v. Califano*, No. 3095-70, D.D.C. 29 December 1977; *North Carolina v. Department of Education*, No.

79-217-CIV-5, Education Department, North Carolina 17 July 1981; *Adams v. Bell*, 711 *F. 2d* 161, D.C. Cir. 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 11 March, 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 11 March 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 24 March 1983).

The defendants entered into a so called *Consent Decree* in 1981. The purpose of this research was to perform an independent compliance audit to learn if the State of Louisiana showed good faith compliance with the Fourteenth Amendment and Title VI as amended. This audit complied with standard educational auditing practice (Cronbach, 1991; Metfessel and Michael, 1967; Scriven, 1991; Stake, 1991; Tyler, 1942) and the principles for presenting a *preponderance of evidence* in court decisions which have been based, in part, upon behavioral research (*Chance v. Board of Examiners*, 330 *F. Supp.* 203, 1971; *Baxemore v. Friday*, 478 U.S. 385, 1986; Bombey & Saltzman, 1982; Bodner, 1983). There is a preponderance of evidence that:

- **The State of Louisiana does not provide an equal educational opportunity to the students of the higher education system.** The funding patterns between and within higher education institutions and systems in Louisiana reflect gross inequities. The State Of Louisiana interpreted the consent decree only in terms of Black institutions and did essentially nothing to insure ethnic balance at the Caucasian institutions. The State of Louisiana used consent decree funds to equate historically Black with White institutions during the consent decree period, not enhance the institutions.

Since 1988, discrimination between institutions is at least at the level it was prior to 1976. Higher education institutions in Louisiana exhibit defacto discrimination in terms of gender and the age of their employees as well as their ethnicity. Louisiana is in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982).

- The Board of Regents and their staff deliberately did not appropriately implement programs consistent with intent of the consent decree and the associated statutes as well as executive orders. After the consent decree period ended, the State Of Louisiana has exacerbated inequities and inequalities by reducing the economic burden upon students at nonconsent decree institutions and increasing the economic burden upon students at historically Black state universities.

- After the consent decree period all semblances of equality vanished and the Board of Regents are considering actions which would exacerbate the inequalities that were resolved during the consent decree period. After the consent decree period the Board of Regents did not fund the consent decree programs in concordance with their own policies. They consistently underfunded the successful consent decree programs.

Recommendations. The behavior of the State Of Louisiana and its agents in and of itself since 1966 presents a preponderance of evidence that there is no intention on the part of the state to comply with Title VI. Moreover it seems that Louisiana may be in violation of Title IX as well as involved in age discrimination. The situation in Louisiana is much worse than that which existed in the Boston public schools in the 1970s. It is strongly suggested that a model similar to the Boston model (also see the action of Chief Judge Gray in Tennessee, *Geier v. Blanton* 427, *F. Supp.* 644 1977). Many Louisiana universities are of national stature and the State Of Louisiana has, due to either inaction or deliberate misconduct, exhibited an inability to offer an equal educational opportunity to the citizens of the United States. The court has a responsibility to the citizens of Louisiana. The federal court has the moral obligation and legal authority to intervene when the constitutional rights of a group of United States are the endangered parties. Such is the case in Louisiana. It is recommended that the court:

- Immediately assume responsibility for the day to day operation of the Louisiana Higher Education System and appoint a court master or system chancellor to identify appropriate staff from within and without the State with the sole purpose of working with the Trustee, Southern, LSU and university presidents to formulate operational plans leading to the elimination of the various boards. Funding for the operation will come from the summarily terminated Board Of Regents. The proposed

centralized plan will have as the primary objective one system of universities each reflecting the population of the state at the student, staff and faculty levels which would provide an equal opportunity for all.

An analysis of mission statements and programs at the universities in Louisiana indicates that few differences exist. Fiscal and political solutions have failed. Now is the time to try an educational solution! A solution which would provide a high and equal educational opportunity to all regardless of gender, ethnicity or age. A Centers of Excellence model is proposed. For example, consider the Trustee System in Northern Louisiana where a distribution of programs at the undergraduate through doctoral level would include:

NORTHEAST:	Allied Health and Aviation
LA TECH:	Engineering, Business, Applied Sciences and Applied Mathematics
GRAMBLING:	Criminal Justice, Education (all levels) and Social Sciences
NORTHWESTERN:	Pure (Fundamental) Sciences and Mathematics, Liberal Arts and Humanities.

This distribution of programs focuses the existing resources of the campuses and the system on programs which each campus has demonstrated expertise. The programs at each campus would be limited to those programs and provide for educational equity.

- Advise the United States Attorney General to consider filling a complaint against the Board Of Regents and its President for deliberate and premeditated malfeasance.

AFFIRMATIVE ACTION

A Compliance Audit Of The Louisiana Public Higher Education System

INTRODUCTION

What constitutes a racially distinct institution? The answer to this seemingly obvious question is neither simple nor agreed upon (Olivas, 1989). A study of case law suggests that, since and before the first challenge to the exclusion of Blacks from the University of Maryland (*Pearson v. Murray,* 168 Md. 478, 182 A. 590, 1936), predominantly White institutions resisted efforts by Black students to enroll. In 1938, the Supreme Court in *Missouri ex rel. Gaines v. Canada,* 305 U.S. 377 (1938) struck down a Missouri directive that did not allow Black residents to attend Missouri law schools; Missouri paid Black residents to attend law schools in another state. Missouri was not the only state that had attempted to carry out such directives. Georgia and other states were carrying out such plans.

Ten years later, cf. *Sipuel v. Board of Regents* 332 U.S. 631 (1948), Oklahoma was required to enroll the first Black student in that state's history. Oklahoma began, after *Sipuel v. Board of Regents,* admitting Black students, roping them off in a corner and established separate facilities. The New York Times (14 October 1948) documented that the first Black student to attend the University of Oklahoma was G. W. McLaurin, a 54 years old Black male who matriculated for a doctorate in education, and his first class was in educational sociology directed by Dr. Frank Balyeat from a desk contained in what was a specially prepared cloak room. The New York Times reported that the

University of Oklahoma assigned McLaurin "a special desk in the library and a special room in the student union building where he can eat his meals." It was not until the early 1950's that Oklahoma, not of their own volition, stopped this practice (cf. *McLaurin v. Oklahoma State Regents,* 339 U.S. 637, 1950 and *McKissick v. Charmichael,* 187 F.2d 949, 4th. Cir. 1951).

The state of Texas had the audacity to establish a separate Black law school to serve as an incentive for Blacks *not to attend* the University of Texas law school after it was decided against in South Carolina in 1947 (*Wrighten v. University of South Carolina,* 72 F. supp. 948, E.D.S.C., 1947). The Texas condition was ruled upon in *Sweatt v. Painter,* 339 U.S. 629 (1950).

Although the Supreme Court struck down separate but equal practices in *Brown v. Board of Education,* 347 U.S. 483 (1954) and directed any and charged all with the duty to cease and desist such practices with all "deliberate speed," (cf. *Brown v. Board of Education,* 349 U.S. 294, 1955) higher education officials have been either recalcitrant or negligent in this duty (Entin, 1986; Kujovich, 1987; Morris, 1979; Olivas, 1979, 1989; Preer, 1982). An instance of that recalcitrance is the reason for this independent compliance audit. In January 1969 the Department of Health, Education and Welfare concluded that the State of Louisiana violated Title VI of the Civil Rights Act of 1964 (cf. 42 U.S.C. § 2000d et seq.) by operating a racially segregated system of higher education and requested the submission of a desegregation plan within 120 days or less. It was not until 1973 (cf. *Adams v. Richardson,* 356 *F. Supp.* 92, 1973) that an injunction was served on the Department of Health, Education and Welfare requiring and enjoining

it to:

> *"within 120 days from the date of this Order to commence enforcement proceedings by administrative notice of hearing, or to utilize any other means authorized by law, in order to effect compliance with Title VI by the states of Louisiana, Mississippi, Oklahoma, North Carolina, Florida, Arkansas, Pennsylvania, Georgia, Maryland and Virginia"*

The states of Arkansas, Pennsylvania, Georgia, Maryland and Virginia complied with the order. The other states, including the State of Louisiana had not complied with the order potentially suggesting a deference on the part of Louisiana Higher Education if not the entire State of Louisiana to the constitution and the rights afforded all citizens of the United States.

In *Adams v. Bennett* 675 *F. Supp.* 668 D.D.C. 1987 the court recognized the difficulties unique to the desegregation of higher education.

> *Perhaps the most serious problem in this area is the lack of statewide planning to provide more and better trained minority group doctors, lawyers, engineers and other professionals. A predicate for minority access to quality postgraduate programs is a viable, coordinated statewide higher education policy that considers the special problems of minority students and of Black colleges.*
>
> *...The process of desegregation must not place a greater burden on Black institutions or Black students' opportunity to receive a quality public higher education....First, there is the inherent difficulties of increasing Black*

enrollment in predominantly white public institutions, stemming at least in part from current admissions standards, which many Blacks, because of inferior secondary education, find difficult to meet. It is no secret that many of the Black eligibles with proper academic qualifications are persuaded to attend private out-of-state institutions offering scholarships and other financial aid. Extensive recruiting efforts have not been entirely successful. Second, white enrollment in predominantly Black institutions has also lagged but for different reasons, among them the diminished academic quality of these institutions and their poorer facilities. In order to bring Black institutions up to equality and make them competitive with white institutions state legislatures will have to act to supply the needed funds for the hiring of faculty and the expansion of physical plant and facilities.

Although the court understood the problems, it was not willing to wait for an eternity for a solution to those problems.

The recalcitrance of the State of Louisiana and the Department of Health, Education and Welfare to carry out that order exacerbated the problem. It was not until March 14, 1974 that the United States Attorney General attempted to enforce the provisions of the Fourteenth Amendment to the Constitution and Title VI of the Civil Rights Act (cf. *United States of America v. State of Louisiana, et al*, U.S.D.C., 80-3300 §A). The United States alleged that:

the State of Louisiana and its agents exercising management and control of public colleges and universities, established and have maintained a racially

> *dual system of public higher education in violation of the Fourteenth Amendment and Title VI. The United States further alleged that the defendants had failed to develop and implement detailed plans which "promise realistically and promptly to eliminate all vestiges of a dual system of higher education within the State of Louisiana."*

The State of Louisiana denied the allegations and asserted that:

> *public institutions of higher education in the State of Louisiana are in full compliance with the Fourteenth Amendment and Title VI...have maintained non-racial open admissions policies and non-racial employment policies and have taken other action to comply fully with the letter and spirit of the Fourteenth Amendment and Title VI.*

The defendants entered into a so-called *Consent Decree* in 1981.

Noncompliance with Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.* (1982), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982) has severe consequences for the State of Louisiana, all institutions (higher education and otherwise), all students (enrolled in public higher education, private higher education or public schools) and all citizens of the State of Louisiana. The *Adams* and subsequent cases have alleged improper grants of federal funds in violations of statutes mentioned above, regulations and executive orders (*Adams v. Bennett*, 675 *F. supp.* 688, D.D.C., 1987; *Adams v. Richardson*, 480 F. 2d. 1159, D.C. Cir 1973, affirming 356, *F. supp.* 922,

D.D.C., 1973; *Adams v. Weinberger,* 391 *F. supp.* 269, D.C.C. 1977; *Adams v. Califano,* No. 3095-70, D.D.C. 29 December 1977; *North Carolina v. Department of Education,* No. 79-217-CIV-5, Education Department, North Carolina 17 July 1981; *Adams v. Bell,* 711 *F. 2d* 161, D.C. Cir. 1983; *Adams v. Bell,* No. 3095-70, D.D.C. 11 March, 1983; *Adams v. Bell,* No. 3095-70, D.D.C. 11 March 1983; *Adams v. Bell,* No. 3095-70, D.D.C. 24 March 1983). The repayment of prior federal grants received by all agencies of the State of Louisiana since the original 1964 HEW order would be debilitating to the citizens of Louisiana.

The purpose of this research is to perform an independent compliance audit to learn if the State of Louisiana showed good faith compliance with the Fourteenth Amendment and Title VI as amended. The methodology involves a longitudinal study of data concerning the characteristics of Louisiana' public higher education institutions provided in public documents published by the State of Louisiana as well as data graciously provided by the National Center for Educational Statistics, the U.S. Department of Education Office of Educational Research and Improvement and other federal documents. The educational compliance audit has a long history as a mechanism for educational improvement and policy development (Cronbach, 1963; Dubois, 1970; Ginsberg, 1989; Tyler, 1991, 1950, 1941). The techniques used in this audit not only complied with standard practice (Cronbach, 1991; Metfessel and Michael, 1967; Scriven, 1991; Stake, 1991; Tyler, 1942) but also with the principles for presenting a *preponderance of evidence* in court decisions which have been based, in part, upon behavioral research (*Chance v. Board of Examiners,* 330 *F. Supp.* 203, 1971; *Baxemore*

v. Friday, 478 U.S. 385, 1986; Bombey & Saltzman, 1982; Bodner, 1983).

Governance Of Higher Education in Louisiana is a three tiered system. The first tier consists of a Board of Regents that has total authority over the three lower tiers. The system president serves at the pleasure of the Board of Regents is the chief operating officer of the system. The Board of Regents president, distinct from the system president, chairs the board and, drawing an analogy with the private business sector, is the chief executive officer of the system. The second tier consists of three governing boards.

- The Southern University Board has authority over Southern University Baton Rouge, Southern University Shreveport, Southern University New Orleans and the Southern University Law School.
- The Louisiana State University System Board has authority over Louisiana State Universities at Baton Rouge, Shreveport and New Orleans as well as two year colleges, also called Louisiana State Universities, at Alexandria and Eunice. This board also has authority over three special purpose technical institutes Louisiana State University Medical School, The Veterinary Medical School and the Louisiana State University Agricultural Center.
- The Trustee System has authority over Grambling State University, Louisiana Tech. University, Northeast State University, Northwestern State University, Southeastern State University, University of Southeast Louisiana and three two year colleges: Delgado, McNeese and Nicholls.

Each board is served by a staff with a system president that is the chief executive officer of the respective system. The third and lowest system management tier is at each institution where each president is the chief executive officer.

EDUCATIONAL EQUITY, EQUALITY AND ADEQUACY

Equitable funding is providing appropriations to each campus based on need. Identifying needs and achieving equitable distribution requires formulas that recognize differences in size, clientele, location, and mission. The idea of equity does not mean a distribution of support involving the same amount of money for each institution despite size, or the same amount of funds per student despite the programs offered. Equity is providing support to each institution according to its needs and should not be confused with equality.

Equality is providing the same funds per full time equivalent student. *Equity does not mean equality.* Equity requires differentiation according to program offerings and enrollments by providing the same resources to each institution of higher education for each full time equivalent student enrolled in comparable programs of instruction while recognizing that there are special circumstances of enrollment size, location, stage of development and clientele served which require modification or exceptions.

Adequacy. Although the need for an equitable distribution of resources to public institutions was a prime factor in the development of funding formulas, other factors also served as catalysts: the need to identify an adequate level of funding, institutional needs to have stability and predictability in funding, and increased professionalism among college and university business officers. Adequacy involves program planning to examine

issues of program objectives, program size, program technology, and program support to allocate like amounts of money for like functions. Program planning and budgeting in higher education achieves adequacy by allocating some resources based on perceived societal needs.

An affirmative action study must take the concepts of equity, equality and adequacy into account. For the purpose of this study equity and adequacy are defined in terms of the ratio of the financial burden placed upon students at institutions which offer comparable programs. The fundamental guide will be that equality is achieved if students at comparable institutions share the same burden. In addition, programs offered particular ethnic cohorts should be funded equitably in the sense that an individual should have the opportunity to participate in any program regardless of gender or ethnicity and not experience a differential financial burden identifiable with gender or ethnicity.

This document is organized in terms of five sections each discussing the outcomes of particular studies conducted as part of this compliance audit. This, the first section, has presented an overview of the problem. The next section discusses *funding similarities and differences before, during and after the so called consent decree period.* The purpose of that study was to determine if the State Of Louisiana made a concerted effort to achieve equality by reducing funding disparities which existed prior to the consent decree and if the state has either continued funding disparity reduction or reverted to prior practices. The third section describes *equal opportunity in college attendance and employment* practices in the universities of the State Of Louisiana.

Ethnic distributions of faculty and students are examined. The next section, *Did The Consent Decree Programs Work?*, presents data concerning the impact of specific consent decree programs in an attempt to determine if the practices brought about by the consent decree should be either continued, enhanced and expanded or terminated. The fifth and final section will present summary recommendations.

FUNDING SIMILARITIES AND DISPARITIES AMONG LOUISIANA STATE UNIVERSITIES BEFORE, DURING AND AFTER THE CONSENT DECREE

Louisiana, presumably, predicates institutional budgets to a large extent upon a student driven funding formula. Use of formulas should provide for equity and adequacy. If institutions are equitably funded, all students should share the same burden for their education. The ratio of the state contribution to each institution' budget compared to the revenue derived from fees will be used as an indicator of equity. Since consent decree funding to historically Black state universities (HBSUs) should, in part, be used to compensate for past inequities, budget ratios need to be examined including and excluding consent decree funding. The ratio of state to student fee contributions not adjusted for consent decree funding is called *the ratio.* The ratio of state to student fee contributions adjusted for consent decree funding is called *the adjusted ratio.*

THE LOUISIANA STATE UNIVERSITY SYSTEM

The ratio of state to student contributions to Louisiana State Universities at Eunice, Alexandria, Shreveport, Baton Rouge and New Orleans is shown in Figure 1. There is a large disparity between the relative burdens that the state must bear.

Students at the junior colleges (Eunice and Alexandria) contribute considerable *less* than students at the universities. The State of Louisiana contributes $2.14 at Eunice and $2.28 at Alexandria for every student dollar. At LSU Shreveport the state contributes $1.30 and $1.00 at New Orleans for every student dollar. Interestingly, the state contributes less ($1.57 per student dollar) at the, supposedly, flagship institution at Baton Rouge than at the two community colleges.

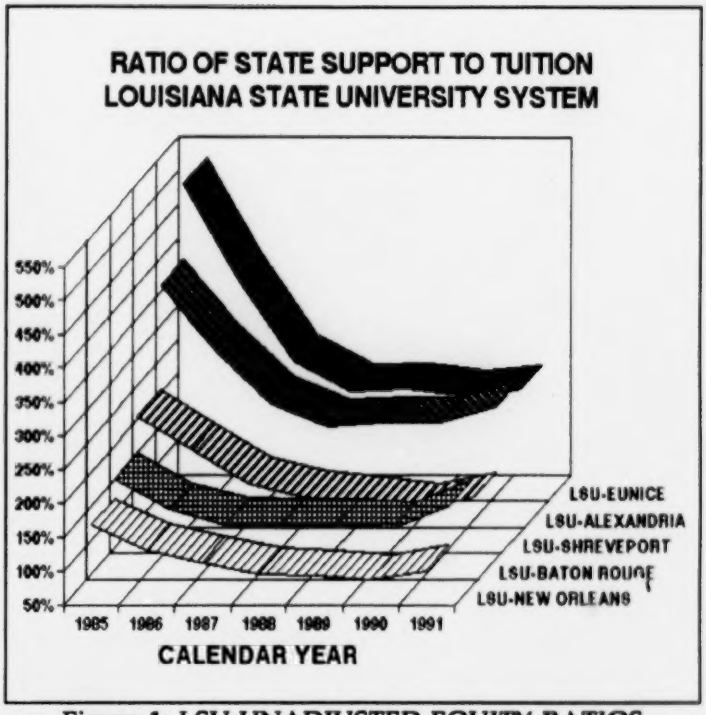


Figure 1: LSU UNADJUSTED EQUITY RATIOS

As these results are described more fully it will become clear that the State Of Louisiana is more interested in supporting the junior colleges than it is interested in funding the four year and graduate institutions. It will also become evident that the State of Louisiana, after the consent decree period, has reduced the burden upon students at nonconsent decree institutions and increased the burden upon students at the HBSUs.

The support ratios at the Louisiana State University Board institutions after accounting for consent decree funding during the consent decree period (see appendix

B) indicates that only two LSU schools received consent decree funds (LSU at Baton Rouge and at New Orleans). The funding that they received, $50,000, was minuscule compared to their total budgets and reflect a token effort to achieve compliance at those institutions. Furthermore, it seems that the LSU Board did not believe that an issue in the consent decree was increasing Black representation at the institutions under their purview. As will become evident as we proceed, the Board Of Regents agreed with that position and allocated no funding to increase minority representation at predominantly White institutions.

Funding for the Medical, Veterinary and the two law schools are shown in Figures 2 and 3 (also see Appendix C).

The State of Louisiana contributes $11.00 for each dollar paid by a student or service recipient at the State Agricultural Center. That figure is totally out of line with the state contribution to any other institution of higher education. It is quite clear that **the State Of Louisiana is more interested in supporting the vocational programs in**

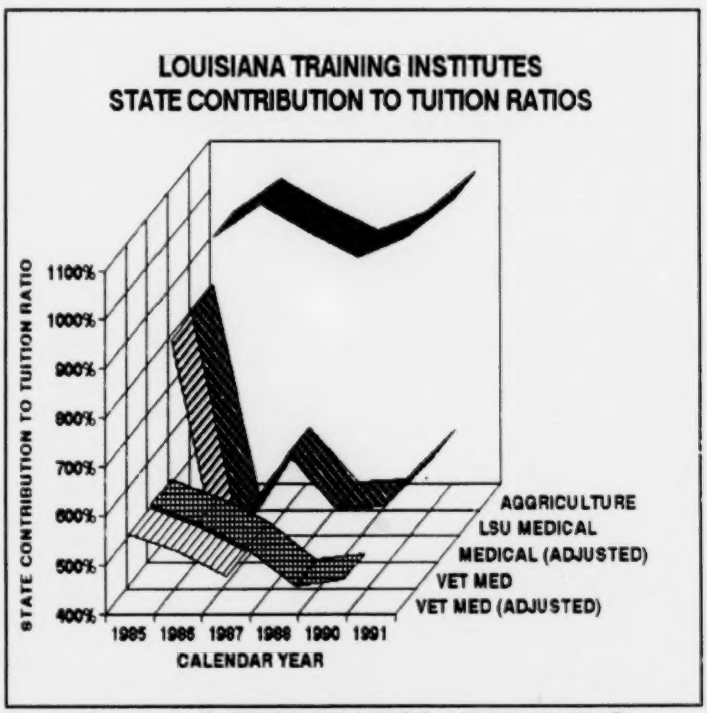


Figure 2: SUPPORT RATIOS AT TRAINING INSTITUTES

medicine, agriculture and law followed by the junior colleges and lastly any state university. Although students at medical, veterinary and law schools tend to earn higher salaries upon graduation and have greater opportunity to earn money while in school the LSU Board and the Board of Regents believe that these students are in need of greater financial support than other students. Students at the medical school share only 12% of the burden of their education compared to state university students that share between 33 and 50 percent of the cost of an education. Also, *since the end of the consent decree period students at the vocational (Medical and Agriculture) schools have shared a lower proportion of the burden of their education than during the consent decree period.*

The Law Schools. The state of Louisiana has differentially funded the Southern University Law School compared to the Hebert Law School. Since the Southern Law School can be considered an HBSU and is a relatively new school, it could be expected that it would be funded at a higher level. However, after accounting for consent decree funds, the students at the Southern University Law School are

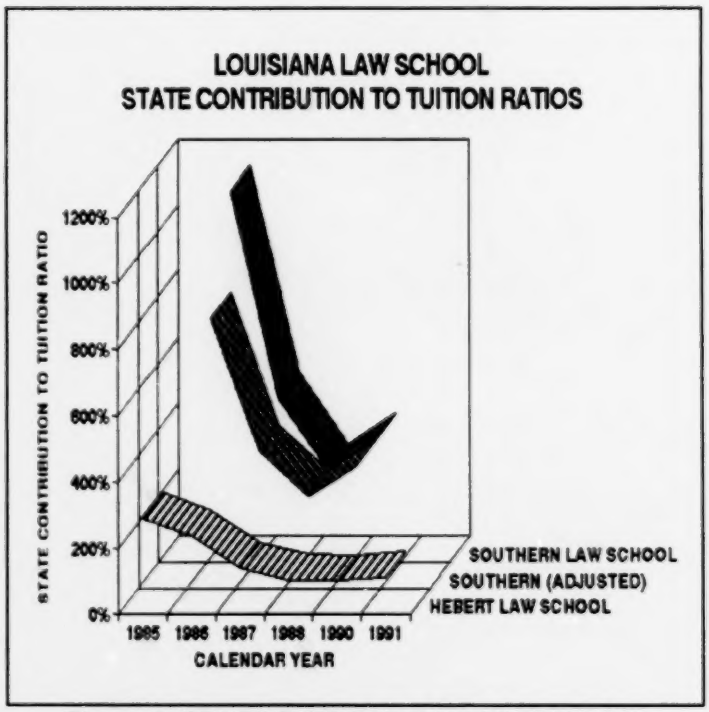


Figure 3: STATE SUPPORT RATIOS FOR LAW SCHOOLS

supported by the State Of Louisiana at a rate **three times greater** than the students at the Paul M. Herbert Law School. Students at the Southern University Law School receive the benefit of nearly $5.00 from the State Of Louisiana for every dollar they pay in fees compared to $1.09 received by the Paul M. Herbert Law School Students for the same tuition dollar.

THE SOUTHERN UNIVERSITY SYSTEM

The support ratios (unadjusted and adjusted for consent decree funds) are shown in Figures 4 and 5. The Southern University Board funded the operation in Shreveport (a junior college) at twice the rates at New Orleans and Baton Rouge per student. During the consent decree period, students at Shreveport contributed less than 10% of the state contribution compared to a contribution of 25% in New Orleans and 33% at Baton Rouge. After the consent decree period, students at Southern Shreveport contribute about 16% compared to 40% at New Orleans and 33% at Baton Rouge.

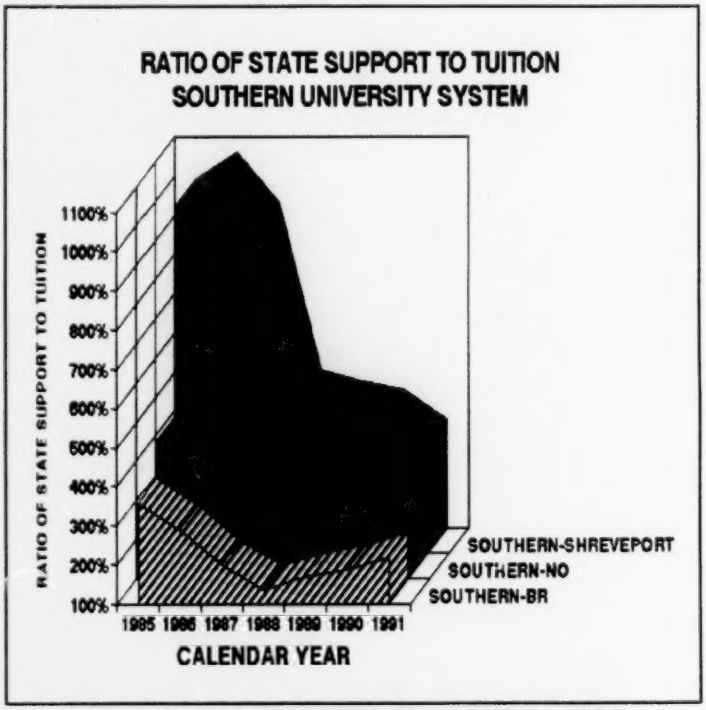


Figure 4: UNADJUSTED SUPPORT RATIOS SOUTHERN UNIVERSITY SYSTEM

After adjusting for incentives during the consent decree period, Southern Shreveport is supported at a rate approximately equivalent to the other junior colleges in Louisiana. However, Students at Southern Shreveport, like their counterparts at the other junior colleges in Louisiana, **two to six times less** to their education than the students at the four year institutions.

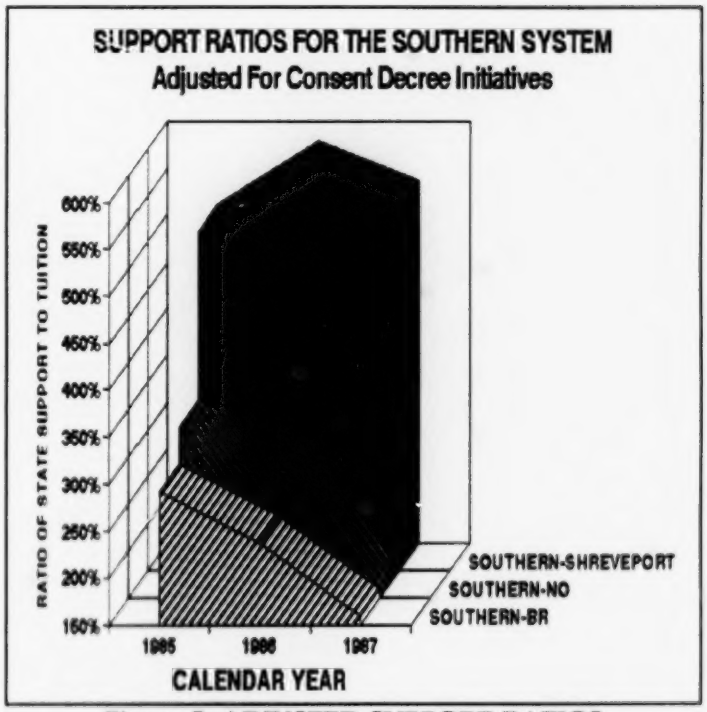


Figure 5: ADJUSTED SUPPORT RATIOS SOUTHERN UNIVERSITY SYSTEM

Students at Southern Shreveport currently contribute, proportionately, half of what their junior college contemporaries at LSU Eunice and Alexandria contribute in terms of a percentage of the state share to their educations. After factoring out the incentive funds attributed to the consent decree, the base funding at Southern New Orleans and Southern Baton Rouge was equivalent in terms of the state contribution to LSU schools in those areas. After the consent decree period, the base funding at Southern Baton Rouge and New Orleans defined as the ratio of state support to student support remains equivalent to the predominately White institutions in those areas.

THE TRUSTEE SYSTEM

The trustee system consists of four North Louisiana Schools (Northwest, Northeast, Louisiana Tech. and Grambling State Universities) and five other institutions consisting of three junior colleges (Nicholls, McNeese and Delgado State Universities) and two comprehensive schools (Southwest and Southeastern Louisiana State Universities). For the purpose of this discussion, the universities will be discussed in terms of two partitions: Northern (Northwest, Northeast, Louisiana Tech. and Grambling State Universities) and South-Central (Nicholls, McNeese and Delgado, Southwest and Southeastern Louisiana State Universities).

NORTHERN LOUISIANA STATE UNIVERSITIES

The adjusted and unadjusted support ratios for Northern Louisiana State Universities are shown in Figures 6 and 7 (also see appendix A). Students at Northwest State University are the beneficiaries of state funds in the trustee system. Northwest State University is an anomaly, students at all universities in Louisiana, except

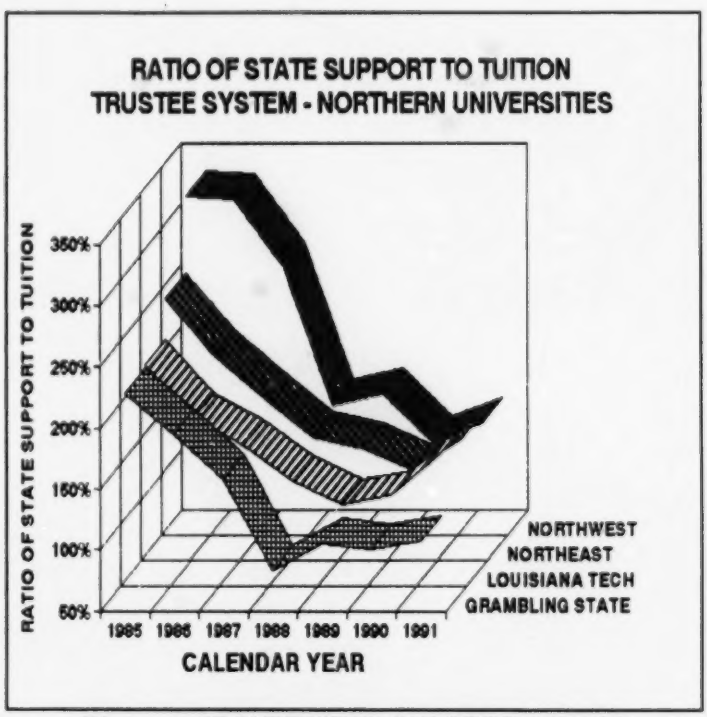


Figure 6: UNADJUSTED SUPPORT RATIOS
NORTHERN TRUSTEE UNIVERSITIES

Northwest State University, contribute a greater proportion to the support of their education than students at junior colleges. Northeast Louisiana State University students seem to also be preferred children in Northern Louisiana since, until the consent decree ended, they contributed a lower proportion of the cost of their education than students at either Louisiana Tech. or Grambling State Universities.

The Boards of Regents and Trustees used consent decree funds to equate the Louisiana Tech. and Grambling State Universities. **The Boards of Regents and Trustees did not provide Grambling State University with incentive funds. Rather, the operational budget at Grambling was adjusted in such a manner as to equate the student contribution ratio with Louisiana Tech. and, hence, Grambling could either fund enhancements or increase the burden upon the student.** The adjusted burden ratios indicate that *during the consent decree period the State of Louisiana discriminated between all northern universities.* During the consent decree period, students at Northwest Louisiana University enjoy a lower burden than students at Northeast. Students at Northeast Louisiana State

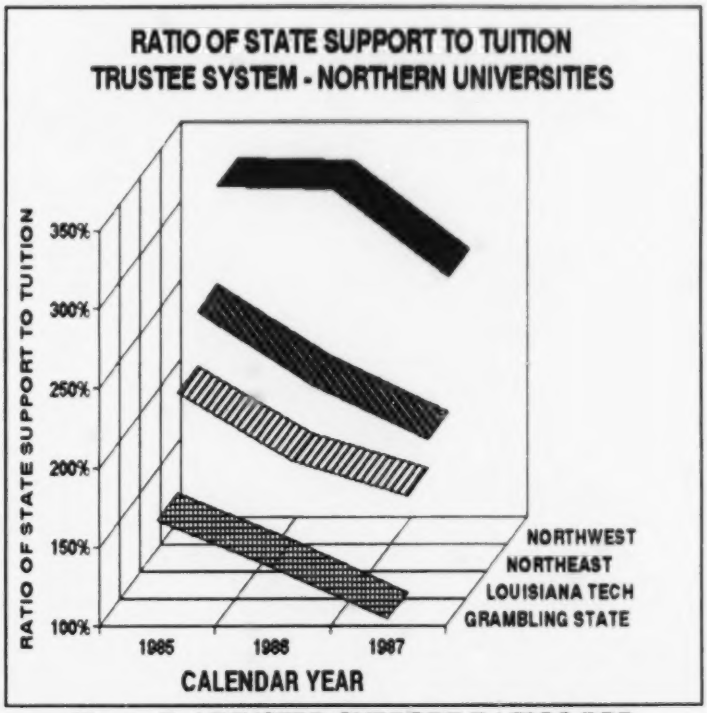


Figure 7: ADJUSTED SUPPORT RATIOS FOR NORTHERN TRUSTEE UNIVERSITIES

University enjoy a lower burden than those at Louisiana Tech. *During the consent decree period students at Grambling State University experienced the greatest burden in supporting their education-three times that of students at Northwest, two and a half as much as students at Northeast and twice as much as students at Louisiana Tech. Universities.*

After the consent decree period. All students at the northern universities had to assume a greater proportion of the burden of financing their educations after the consent decree. The magnitude of the change is informative. Students at Northwest, Northeast and Louisiana Tech. had to absorb about a 30% greater burden while Grambling State University students were required to absorb a nearly 75% increase. *In 1988, the year the consent decree ended, Grambling State University students contributed more in fees than the state contributed to the operation of the University!* The funding patterns since 1988 indicate that the State Of Louisiana appears to be funding northern universities in such a fashion as to equate the burdens of students at Northwestern, Northeastern and Louisiana Tech. Universities and requiring Grambling State University students to assume twice the burden of the students at the other northern Louisiana universities.

SOUTH-CENTRAL UNIVERSITIES IN THE TRUSTEE SYSTEM

The support ratios for the south-central universities (Nicholls, McNeese and Delgado, Southwest and Southeastern Louisiana State Universities) are shown in Figure 8 (Also see appendix A). Since these schools did not receive consent decree funds, no calculation of adjusted ratios was performed.

The **junior college phenomena** is evident where the State Of Louisiana supports

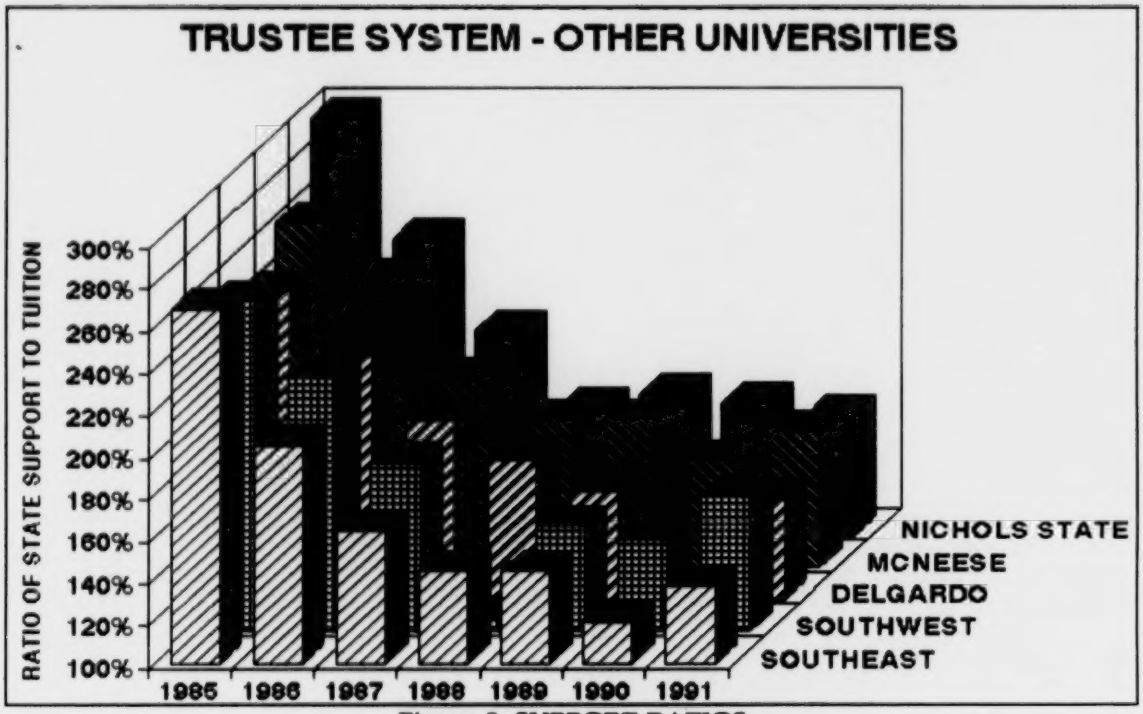


Figure 8: SUPPORT RATIOS
SOUTH-CENTRAL TRUSTEE UNIVERSITIES

the south-central junior colleges to a greater extent than the four year and graduate institutions in the same area. *Within the junior colleges, however, students in the junior colleges within the Trustee System absorb two to three times the burden of junior college students in either the LSU or Southern Systems.* The burden upon junior college students in each of the respective colleges has varied between colleges over the years, however, the Trustees are to be commended for keeping relative disparities between institutions at a minimum.

There is a great disparity between Northern and South-Central Universities within the Trustee System. Northwest, Northeast and Louisiana Tech. State University students **contribute two to three times less** to the support of their educations than south-central

university students. South-central university students and their parents have a right to know how the Board of Trustees can justify the disparity. **Grambling State University students contributed before, during and after the consent decree, between 30 and 350 percent more to the support of their educations than students at any other Trustee school.** The extent to which the Board Of Regents have funded consent decree programs may be reflected in how they funded the Ed.D. program at Grambling State University. Although the Ed.D. program at Grambling is the only one of its' kind in the United States and has begun to achieve National prominence, it is beginning to decrease in enrolment due to under funding. In addition, the Lincoln Parish Agreement, part of the original consent decree, clearly indicated that if the Board of Regents determined that further education doctorates were needed in Northern Louisiana they would be housed at Grambling State University. Furthermore, the Lincoln Parish Agreement specified specific education doctorates in addition to the

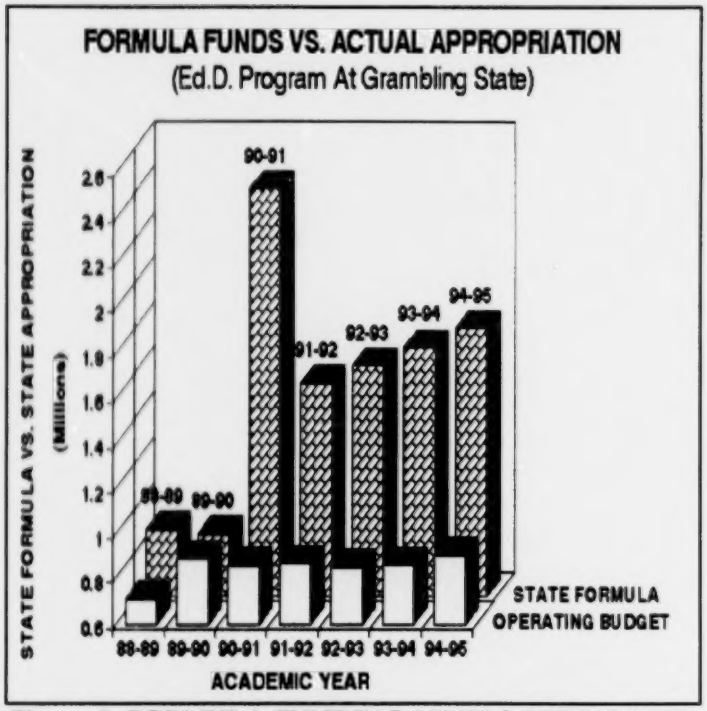
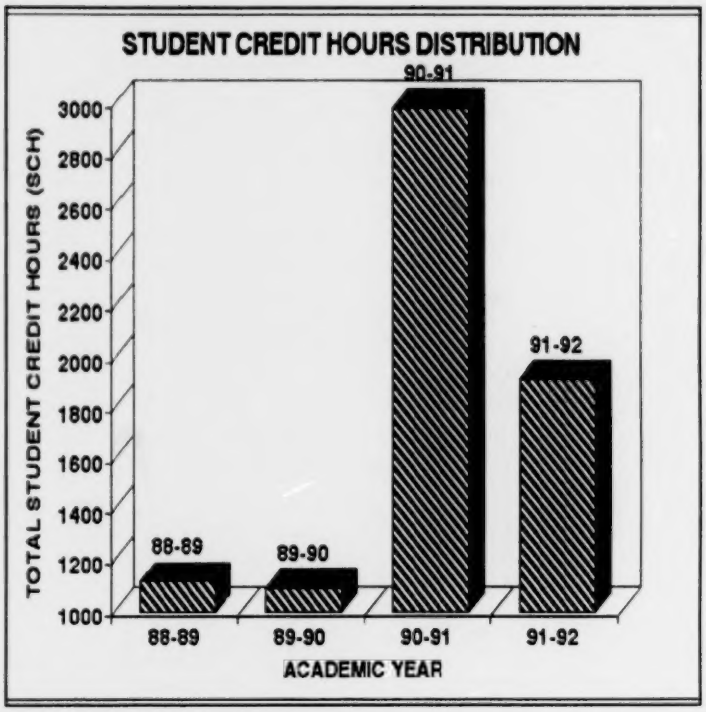


Figure 9: FORMULA FUNDING LEVELS PREDICATED UPON REGENT STUDENT CREDIT HOUR FORMULA AND ACTUAL BUDGET LEVELS (Budget Levels Beyond 1992-1993 Are Regent Projections)

existing Ed.D.. As of this time none of the preagreed upon doctorates have been implemented at Grambling State University. In addition, although Grambling State University has had exemplary evaluations by NCATE and the Southern Regional Accreditation Association, the Board of Regents, interestingly right after the consent decree ended, determined that other doctorates in education were needed in northern Louisiana and they would be located at Louisiana Tech. and at Northeast Louisiana State University.



The last results combined with an immediate decrease in the state to student contribution ratio the year the consent decree ended raises serious questions concerning either the understanding or the deliberate intent of, ultimately, the staff and members of the Board of Regents of the meaning and intent of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.* (1982), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982).

DOES EQUAL ETHNIC AND GENDER EMPLOYMENT OPPORTUNITY AND EDUCATIONAL OPPORTUNITY EXIST IN LOUISIANA STATE UNIVERSITIES?

Funding is only one of the many equity dimensions. Students at different institutions receive equal educational opportunity if they experience a faculty which is not only culturally diverse but also gender balanced and possessing a similar amount of experience. This section of this compliance audit will examine the evidence pertinent to the ethnic, gender and experience differences which may or may not exist between Louisiana State Universities.

GENDER DIFFERENCES

The proportion of female faculty at each Louisiana State University is shown at the right. Those data were extracted from Board Of Regents reports. The average percentage of female faculty in the United States, reported by the National Center For Educational Statistics, is approximately 33 percent. Using that proportion as a guide, most Louisiana universities employ an appropriate proportion of females.

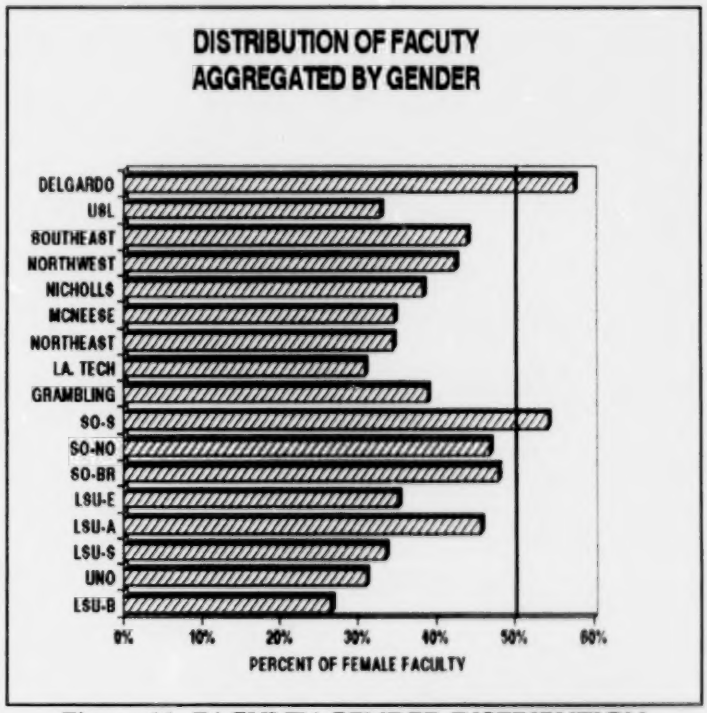
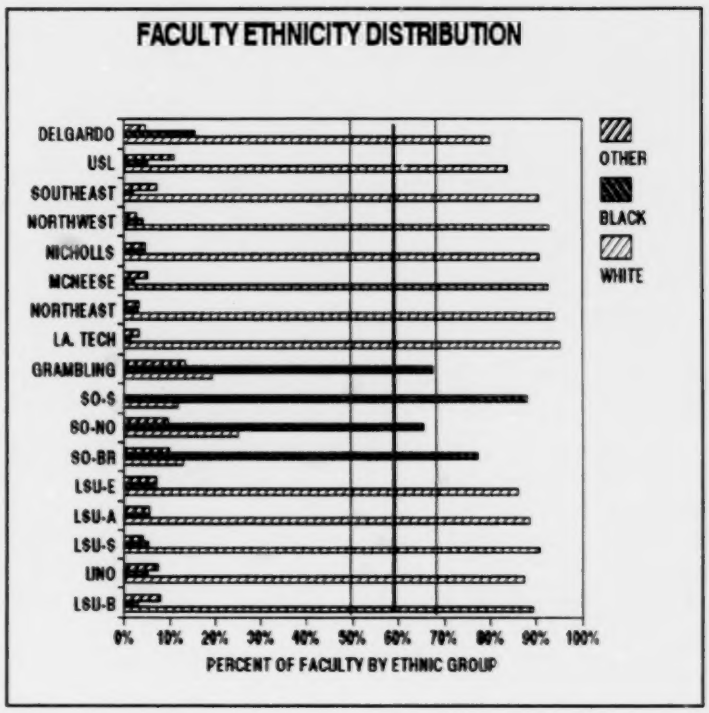


Figure 11: FACULTY GENDER DISTRIBUTION

There is a gender related problem with the fair employment practices of Louisiana universities in terms of an under representation of males. Delgado, Southeast, Grambling, Northeast, Nicholls, Southern (Baton Rouge, New Orleans and Shreveport campuses) and LSU-Alexandria seem to have hired an larger number of females than expected. Although there is no direct evidence that Louisiana State Universities have engaged in unfair hiring practices, in higher education that women may tend to be paid less and more women are hired on a temporary basis not on a tenure track. Hence, women may have less experience and fewer resources to obtain grants, publish, do research, etc.. The distribution of female faculty within the system should be examined in greater detail to determine that females are not hired in great numbers in order to take advantage of them in terms of salary and advancement.

ETHNICITY

The distribution to the right reflects the proportion of Black and White faculty members on each Louisiana campus as reported by the Board of Regents. Taking an approximate 60% White/40% Black ratio in the general population no campus reflects the ethnic composition of the



population. The historically Black Universities reflect an over preponderance of Black faculty and the predominately White campuses have an over preponderance of White faculty. Grambling and Southern (Baton Rouge and New Orleans campuses) universities have a large over preponderance of Other race faculty. It seems that the HBSUs have made an attempt to increase the proportion of White faculty. However, the HBSUs need to greatly enhance those efforts and strongly examine their tendency to hire Other race faculty in numbers greater than the population proportions would indicate. The ethnic structure of the predominately White campuses reflect the policy directive implicit in the consent decree funding. In particular, since little or in most cases no consent decree funding was allocated to the predominately White campuses the impression was that the intent of the decree or, perhaps, the Board of Regents was that there was a problem with the proportion of White faculty on HBSUs but not the proportion of Black faculty on predominately White campuses. This is not the spirit of equal employment nor equal educational opportunity and reflects defacto if not overt discriminatory hiring and educational practice.

FACULTY EXPERIENCE

The average number of years of the faculty at each Louisiana State University was obtained from Board Of Regents reports and is displayed graphically to the right. There is a large experience disparity between the universities in Louisiana. Louisiana Tech., Grambling, Southern (Shreveport, Baton Rouge and New Orleans),
Eunice, Alexandria and the University of New Orleans house the faculty with the greatest number of years of experience. Delgado, University of Southeast Louisiana,

Northeast, Northwest, McNeese, Southeast, LSU-Shreveport and Baton Rouge house faculty with less experience. Delgado closely followed by Southeast and Northwest Louisiana State Universities have the faculty with the least experience (and probably the lowest proportion tenured).

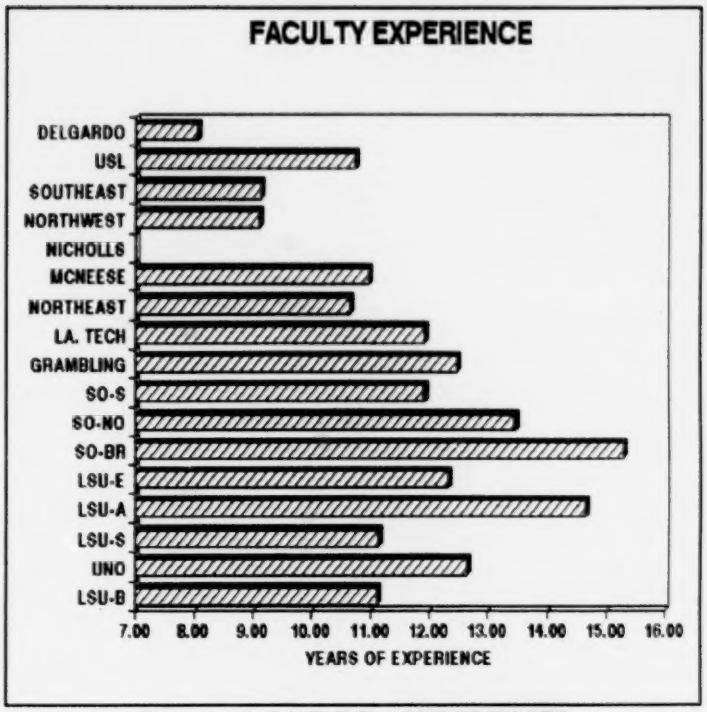


Figure 13: FACULTY EXPERIENCE AT LOUISIANA STATE UNIVERSITIES

Experienced tenured faculty provide students with a wealth of knowledge that comes only from the extensive research and scholarship necessary to obtain the rank of a tenured full professor as well as stability to the institution. Less experienced faculty provide students with new ideas and a recent knowledge of current practices as well as a dynamic quality to the organization. Although it can not be said the State of Louisiana has, as a body, discriminated on the basis of age (experience) it appears that the distribution of median faculty experience across the system indicates that certain institutions have an over abundance of experienced (older) faculty while other institutions have an over abundance of less experienced (younger) faculty. A more equitable distribution of faculty by experience

would enhance the opportunity for all students to benefit from an equal educational opportunity. At this point, given this experience distribution, it does not seem that students may not be obtaining an equal educational opportunity. Since, except for LSU-Alexandria, the universities with the faculty with the most experience are HBSUs, Blacks are not obtaining the benefit which would come from interacting and identifying with young faculty close to their age.

THE IMPACT OF CONSENT DECREE PROGRAMS ON LOUISIANA STATE UNIVERSITIES

Since there was no clear programmatic impact, through funding, of the consent decree upon the predominately White institutions it is fairly safe to say that the consent decree had not impact programmatic impact upon them. This is a sorry state of affairs. The intent of the consent decree was, in part, to achieve equal educational opportunity. Equal educational opportunity does not only mean change on HBSUs it is equality for all. Since the Board Of Regents did not have the depth of vision, or the willingness, to establish a truly multicultural climate in Louisiana the consent decree had a unilateral impact.

The impact of the consent decree will be examined in terms of two dimensions. Enrollment trends before, during and after the consent decree will be compared with National trends for HBSUs over the same time period. Enrollment trends for a particular consent decree program will be compared with nonconsent decree programs at the same institution in Louisiana.

ENROLLMENT TRENDS AT HBSUs

Hoffman, Snyder & Sonnenberg (1992), officers of the U.S. Department of Education, Office of Educational Research and Improvement, released a detailed study of enrollment trends at historically Black state universities. Each HBSU was identified by name. A summary of those enrollment trends, percentage of growth and decline compared to the 1976 base year, are shown graphically in Figure 14. See Appendices D and E for the numerical data and results.

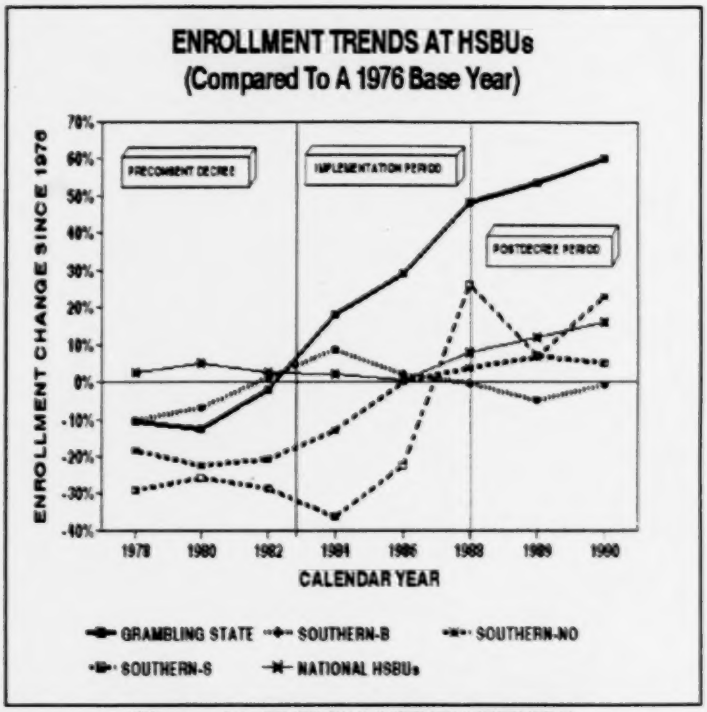


Figure 14: ENROLLMENT TRENDS FROM 1976 TO THE CURRENT TIME
U.S. Department of Education (1992)

Prior to the implementation of a consent decree in Louisiana, the HBSUs in the United States were experiencing an approximately 2.5 percent annual growth rate. The Louisiana experiment can be viewed as an experiment since the Louisiana HBSUs were not experiencing growth rates which could in anyway be considered in line with the national trends. In fact, the Louisiana HBSUs were not growing, they were declining in enrollment. Southern University experienced an annual decline during the six years prior

to the implementation of the consent decree of approximately 5 to 6 percent at Shreveport and New Orleans and one percent at Baton Rouge. Grambling State University was experiencing an enrollment decline in excess of two percent per year. Between 1976 and 1980, Southern University experienced enrollment declines of 23.8% at Shreveport, 22.3% at New Orleans and 6.9% at Baton Rouge while Grambling State experienced a 12.3% enrollment decline. All of the Louisiana HBSUs experienced remarkable cumulative increases in enrollment over the base year during the consent decree period (29.1% cumulative increase over the base year in 1986 vs. a 12.3% cumulative decrease over the 1976 base year in 1980 at Grambling; 1.9% cumulative increase over the base year in 1986 vs. a 6.9 cumulative decrease over the 1976 base year in 1980 at Southern University Baton Rouge; -0.3% cumulative decrease over the 1976 base year in 1986 vs. a -22.3% cumulative decrease over the 1976 base year in 1980 at Southern University New Orleans; and, a -22.4% cumulative decrease over the 1976 base year in 1986 vs. a -28.7% cumulative decrease over the 1976 base year in 1980 at Southern University Shreveport).

AFTER THE CONSENT DECREE PERIOD

The Southern University Baton Rouge and Southern University Shreveport fell below the national average growth rates for HBSUs. In 1990, Southern University reported a cumulative growth rate of 4.7%, eleven percent *below* the national average for HBSUs of 15.8% and Southern University Baton Rouge reported *a cumulative decrease over the base year* of 0.6%. In 1990 Southern New Orleans reported an increase of 22.7% and Grambling State University reported an increase of 60.2% over the

enrollment in the 1976 base year. However, an examination of the enrollment vs. time regression lines during and after the consent decree period reveals that the rates of growth of both Southern University New Orleans, Southern University Shreveport and Grambling State University were drastically reduced after the consent decree compared to their levels during the consent decree.

It is fair to conclude that the Louisiana HBSUs were experiencing enrollment declines of great proportions prior to the consent decree. The consent decree and associated programmatic interventions reversed those declines. The consent decree programs increased not only the enrollment but also the rate of growth of the Louisiana HBSUs. The end of the consent decree spelled the end of enrollment growth at the consent decree rates and the beginning of the road toward a declining infrastructure and enrollments.

ETHNIC COMPOSITION OF THE LOUISIANA HBSUs

Hoffman, Snyder & Sonnenberg (1992) report the proportion of Blacks enrolled at each HBSU at every university in the United States including Louisiana HBSUs. The data for Louisiana historically Black state universities are shown to the right.

Southern Universities at New Orleans and at Shreveport exhibit the lowest proportion (91.5%) of Blacks. Grambling State University exhibits the largest proportion of Black students (96%) closely followed by Southern University at Baton Rouge with 93% Black students. Although the proportion of Black students at HBSUs are high compared to the proportion of Blacks in the population that go on to college, the proportion of White students at predominately White institutions is also high. The

distribution of Black students at Louisiana universities presents a preponderance of evidence indicating defacto discrimination. Although the consent decree had an impact on the universities considerable work remains to be done at the predominately White institutions, the institutions in the Southern system (Baton Rouge in particular) and most definitely at Grambling State University.

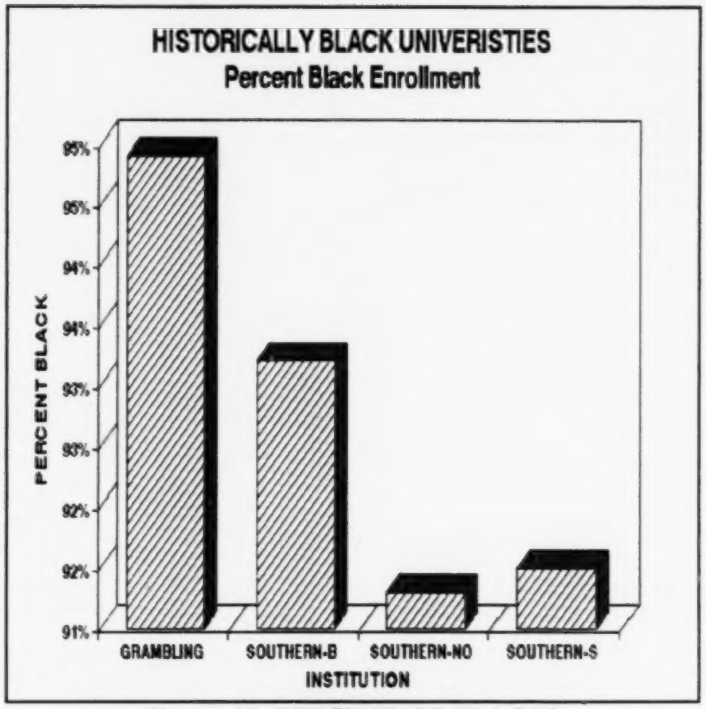


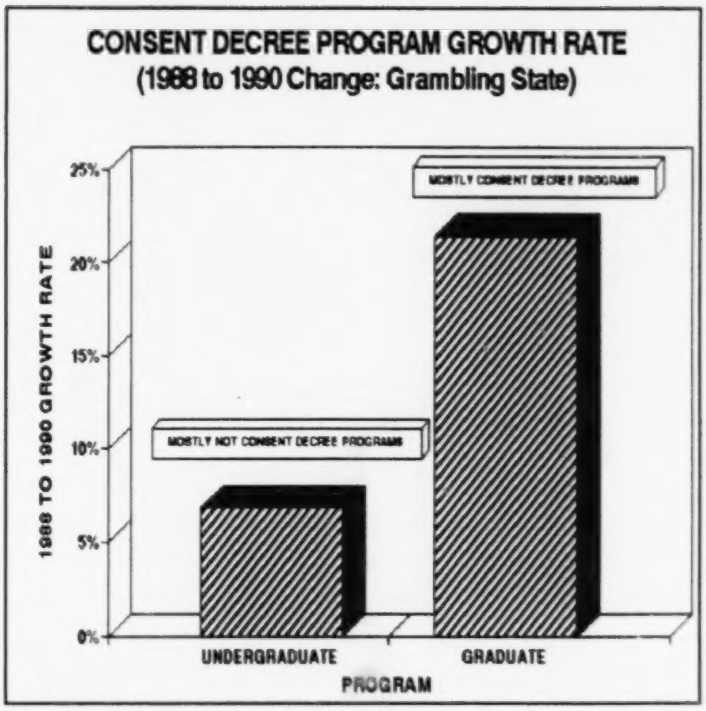
Figure 15: PERCENT OF BLACKS AT LOUISIANA HBSUs.

CENTERS OF EXCELLENCE MODELS

Grambling State University can provide data for making inferences concerning the establishment of centers of excellence. Centers of excellence are universities which offer distinct programs which can not be offered at other universities. Centers of Excellence are the fiscal and programmatic best interests of the citizens of any state and in concordance with the prior wishes of the Louisiana Board Of Regents to not a build duplicate capability within the State Of Louisiana to deliver the same or similar programs.

Currently Grambling State University is operating a Center Of Excellence in

Education at the doctoral (Ed.D.) level in northern Louisiana. In addition, it is operating a Center of Excellence in the field of Developmental Education, due to its unique program, in the nation.



Most of the Grambling consent decree programs were on the graduate level. Most of the Grambling undergraduate programs were not consent decree programs. The data indicates that the graduate programs at grambling experienced a 22.5% growth rate between 1988 and 1990. The undergraduate programs, mostly nonconsent decree programs, experienced only a six percent growth rate.

Admitted students to the Grambling doctoral program reflect ethnic (Black/White) proportions reflective of the population. That indicates that individuals who wish particular types of programs will tend to go to those institutions that offer those programs resulting in a gender and ethnic balance provided that there are no other institutions in the area offering such programs.

Louisiana has a unique opportunity to implement a Centers Of Excellence Model to achieve ethnic and gender balance as well as equal educational opportunity. Certain

institutions have expertise in education, engineering, business, paramedical studies, medicine, law, humanities, etc.. All Louisiana needs in order to attain not only equal educational opportunity but also a position of educational excellence in the United States is the vision and the will.

SUMMARY AND RECOMMENDATIONS

In January 1969 the Department of Health, Education and Welfare concluded that the State of Louisiana violated Title VI of the Civil Rights Act of 1964 (cf. 42 U.S.C. § 2000d et seq.) by operating a racially segregated system of higher education and requested the submission of a desegregation plan within 120 days or less. The State of Louisiana had not complied with the order potentially suggesting a deference on the part of Louisiana Higher Education if not the entire State of Louisiana to the constitution and the rights afforded all citizens of the United States. On March 14, 1974 the United States Attorney General attempted to enforce the provisions of the Fourteenth Amendment to the Constitution and Title VI of the Civil Rights Act (cf. *United States of America v. State of Louisiana, et al*, U.S.D.C., 80-3300 §A). The defendants entered into a so called *Consent Decree* in 1981. The purpose of this research was to perform an independent compliance audit to learn if the State of Louisiana showed good faith compliance with the Fourteenth Amendment and Title VI as amended.

Noncompliance with Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.* (1982), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982) has

severe consequences for the State of Louisiana, all institutions (higher education and otherwise), all students (enrolled in public higher education, private higher education or public schools) and all citizens of the State of Louisiana. The *Adams* and subsequent cases have alleged improper grants of federal funds in violations of statutes mentioned above, regulations and executive orders (*Adams v. Bennett*, 675 *F. supp.* 688, D.D.C., 1987; *Adams v. Richardson*, 480 F. 2d. 1159, D.C. Cir 1973, affirming 356, *F. supp.* 922, D.D.C., 1973; *Adams v. Weinberger*, 391 *F. supp.* 269, D.C.C. 1977; *Adams v. Califano*, No. 3095-70, D.D.C. 29 December 1977; *North Carolina v. Department of Education*, No. 79-217-CIV-5, Education Department, North Carolina 17 July 1981; *Adams v. Bell*, 711 *F. 2d* 161, D.C. Cir. 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 11 March, 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 11 March 1983; *Adams v. Bell*, No. 3095-70, D.D.C. 24 March 1983).

The techniques used in this audit not only complied with standard practice (Cronbach, 1991; Metfessel and Michael, 1967; Scriven, 1991; Stake, 1991; Tyler, 1942) but also with the principles for presenting a *preponderance of evidence* in court decisions which have been based, in part, upon behavioral research (*Chance v. Board of Examiners*, 330 *F. Supp.* 203, 1971; *Baxemore v. Friday*, 478 U.S. 385, 1986; Bombey & Saltzman, 1982; Bodner, 1983). There is a preponderance of evidence that:

- **The State of Louisiana does not provide an equal educational opportunity to the students of the higher education system.**
- **The funding patterns between and within higher education institutions and systems in Louisiana reflect gross inequities.**

- The Board of Regents and their staff deliberately did not appropriately implement programs consistent with intent of the consent decree and the associated statutes as well as executive orders.
- After the consent decree period ended, the State Of Louisiana has exacerbated inequities and inequalities by reducing the economic burden upon students at nonconsent decree institutions and increasing the economic burden upon students at historically Black state universities.
- The State of Louisiana used consent decree funds to equate historically Black with White institutions during the consent decree period, not enhance the institutions.
- After the consent decree period all semblances of equality vanished and the Board of Regents are considering actions which would exacerbate the inequalities that were resolved during the consent decree period.
- The State Of Louisiana interpreted the consent decree only in terms of Black institutions and did essentially nothing to insure ethnic balance at the Caucasian institutions.
- After the consent decree period the Board of Regents did not fund the consent decree programs in concordance with their own policies. They consistently underfunded the successful consent decree programs.
- Since 1988 discrimination between institutions is at least at the level it was prior to federal intervention.

- **Higher education institutions in Louisiana exhibit defacto discrimination in terms of gender and the age of their employees as well as their ethnicity. Louisiana is in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1682 *et seq.* (1980), Executive Order No. 11246, as amended by Executive Order 11375, and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982).**

Recommendations. The behavior of the State Of Louisiana and its agents in and of itself since 1966 presents a preponderance of evidence that there is no intention on the part of the state to comply with Title VI. Moreover it seems that Louisiana may be in violation of Title IX as well as involved in age discrimination. The situation in Louisiana is much worse than that which existed in the Boston public schools in the 1970s. It is strongly suggested that a model similar to the Boston model (also see the action of Chief Judge Gray in Tennessee, *Geier v. Blanton* 427, *F. Supp.* 644 1977). Many Louisiana universities are of national stature and the State Of Louisiana has, due to either inaction or deliberate misconduct, exhibited an inability to offer an equal educational opportunity to the citizens of the United States. The court has a responsibility to the citizens of Louisiana. The federal court has the moral obligation and legal authority to intervene when the constitutional rights of a group of United States are the endangered parties. Such is the case in Louisiana. It is recommended that **the court:**

- **Immediately assume responsibility for the day to day operation of the Louisiana Higher Education System and appoint a court master or system**

chancellor.

- The United States Attorney General consider filling a complaint against the Board Of Regents and its President for deliberate and premeditated malfeasance.
- The provost identify appropriate staff from within and without the State with the sole purpose of working with the Trustee, Southern, LSU and university presidents to formulate operational plans leading to the elimination of the various boards. Funding for the operation will come from the summarily terminated Board Of Regents.
- The proposed centralized plan will have as the primary objective one system of universities each reflecting the population of the state at the student, staff and faculty levels which would provide an equal opportunity for all.

REFERENCES TO THE PUBLISHED LITERATURE

Bodner, G. (1983). Analyzing faculty salaries in class action sex discrimination cases, *Journal of College and University Law, 10,* 305-323.

Bombay, S. & Saltzman, B. (1982). The role of statistics in employment discrimination litigation-A university perspective, *Journal of College and University Law, 9,* 263-278.

Cronbach, L. J. (1991). Functional evaluation design. In M. W. McLaughlin and D. C. Phillips (Eds.), *Evaluation and Education: At Quarter Century.* Chicago: University of Chicago Press, 323-376.

Cronbach, L. J. (1963). Course improvement through evaluation, *Teachers College Record, 64,* 672-683.

Dubois, P. H. (1970). *A History of Psychological Testing.* Boston: Allyn and Bacon.

Entin, J. (1986). Sweatt v. Painter, the End of Segregations, and the Transformation of Education Law, *The Review of Litigation, 5,* 3-71.

Ginsberg, A. L. (1989). Revitalizing program evaluation: The U.S. Department of Education experience, *Evaluation Review, 13,* 579-597.

Hoffman, C. M., Snyder, T. D. and Sonnenberg, Wm. (1992). *Historically Black Colleges and Universities.* Washington, D.C.: U.S. Department of Education, Office of Educational Research and Improvement.

Kujovich, G. (1987). Equal Opportunity in Higher Education and the Black Public College: The Era of Separate But Equal, *Minnesota Law Review, 72,* 29-172.

Metfessel, N. S. & Michael, Wm. B. (1967). A paradigm involving multiple criterion

measures for the evaluation of the effectiveness of school programs, *Educational and Psychological Measurement, 27,* 931-943.

Morris, L. (1979). *Elusive Equality.* D.C.: Howard University Press.

Preer, J. (1982). *Lawyers v. Educators: Black Colleges and Desegregation in Public Higher Education.* Westport, Connecticut: The Greenwood Press.

Olivas M. (1989). *THE LAW AND HIGHER EDUCATION: Cases and Materials on Colleges in Court.* Durham, N.C.: Carolina Academic Press.

Olivas, M. (1979). *The Dilemma of Access.* D.C.: Howard University Press.

Scriven, M. S. (1991). The science of valuing. In Wm. R. Shadish, Jr., T. D. Cook & L. C. Leviton (Eds.), *Foundations of Program Evaluation: Theories of Practice.* Newbury Park, CA: Sage Publications.

Scriven, M. S. (1967). The methodology of evaluation. In R. E. Stake (ed.), *Perspectives of Curriculum Evaluation.* Chicago: Rand McNally.

Stake, R. E. (1991). Retrospective on 'The Countenance of Educational Evaluation.' In M. W. McLaughlin and D. C. Phillips (Eds), *Evaluation and Education: At Quarter Century.* Chicago: University of Chicago Press, 67-88.

Tyler, R. W. (1991). General statement on program evaluation. In M. W. McLaughlin & D. C. Phillips, *Evaluation and Education: At Quarter Century.* Chicago: University of Chicago Press, 3-17.

Tyler, R. W. (1950). *Principles of curriculum and instruction.* Chicago: University of Chicago Pres.

REFERENCES TO CASE LAW

Adams v. Bell, 711 *F. 2d* 161, D.C. Cir. 1983.

Adams v. Bell, No. 3095-70, D.D.C. 11 March, 1983.

Adams v. Bell, No. 3095-70, D.D.C. 24 March 1983.

Adams v. Bennett, 675 *F. supp.* 688, D.D.C., 1987.

Adams v. Califano, No. 3095-70, D.D.C. 29 December 1977.

Adams v. Richardson, 356 *F. Supp.* 92, 1973.

Adams v. Richardson, 480 F. 2d. 1159, D.C. Cir 1973.

Adams v. Weinberger, 391 *F. supp.* 269, D.C.C. 1977.

Brown v. Board of Education, 347 U.S. 483, 1954.

Baxemore v. Friday, 478 U.S. 385, 1986;

Chance v. Board of Examiners, 330 *F. Supp.* 203, 1971.

Geier v. Blanton, 427 *F. Supp.* 644, 1977

Pearson v. Murray, 168 Md. 478, 182 A. 590, 1936.

Missouri ex rel. Gaines v. Canada, 305 U.S. 377, 1938.

McLaurin v. Oklahoma State Regents, 339 U.S. 637, 1950.

McKissick v. Charmichael, 187 F.2d 949, 4th. Cir. 1951.

North Carolina v. Department of Education, No. 79-217-CIV-5, Education Department, North Carolina 17 July 1981;

Sipuel v. Board of Regents 332 U.S. 631, 1948.

Sweatt v. Painter, 339 U.S. 629, 1950.

United States of America v. State of Louisiana, et al, U.S.D.C., 80-3300 §A.

Wrighten v. University of South Carolina, 72 F. supp. 948, E.D.S.C., 1947.

ABOUT THE AUTHORS

Robert M. Hashway is currently a professor of education at Grambling State University. He holds degrees in electronic engineering and mathematics as well as educational research, measurement and evaluation. Dr. Hashway has been one of the leading researchers in developmental education for the past twenty years. As a professor of physics, chemistry and electronics at Roger Williams College, he designed and developed multimedia approaches for training engineers in the use of advanced instrumentation. In 1970, he was one of the first professors in the United States to incorporate microcomputers in the classroom at the college and secondary levels. As director of developmental education for the Massachusetts State College System he developed the Nation's first multimodality computer managed developmental program to be implemented on a regionwide basis. As chief executive officer of Microware Inc. and their associated Advanced Concepts Learning Centers he developed processes to facilitate lifelong learning for executives, educators, rift employees and the underprivliged learner. He provided technical assistance to Deans Burnett Joiner and Johnnie Mills who went on to develop the only developmental education doctoral program in the United States at Grambling State University where Dr. Hashway is the ranking professor. He has published over 200 articles and monographs in the field of developmental education as well as four related books (*Objective Mental Measurement, Foundations of Developmental Education* and the *Handbook of Developmental Education* published by the Greenwood Publishing Group as well as *Cognitive Styles* published by the Mellon Research University Press). Dr. Hashway has received numerous honors for leadership in Higher Education and is included in *Who's Who in America.*

Karen Sue Cain earned her BS degree in mathematics from Berea College and an MA degree in education with emphasis in mathematics from Eastern Kentucky University. She is currently a Senior Research Associate with the *Educational Research Quarterly* at Grambling State University and a student in the doctoral program in education with emphasis in developmental education at Grambling State University. Ms. Cain has been an instructor and coordinator of developmental mathematics programs at Berea College and Eastern Kentucky University since 1974. For the past six years she has conducted the Developmental Mathematics Program at Eastern Kentucky University which has enrollments of 2,000 students per semester. Ms. Cain is coauthor of the text *Measurement Geometry*, second edition and has written the *Supplement* to accompany *Prealgebra* by Charles P. McKeague. She has presented papers and conducted workshops at many conferences. Current research centers on the learning disabled student in the post secondary classroom.

APPENDIX A: GROSS INSTITUTIONAL BUDGETS

		1985	1986	1987	1988	1989	1990	1991
LSU-BR	STATE	90833322	87560511	80077553	81010772	85177929	87481929	117123841
	FEES	46019123	57814068	61073586	62957432	65689777	70127987	74771495
	RATIO	197%	151%	131%	129%	130%	125%	157%
LSU-A	STATE	4137964	4031161	3751143	3170092	3805476	3876088	4635528
	FEES	1016310	1302910	1615910	1598560	1866960	1898185	2033083
	RATIO	407%	309%	232%	198%	204%	204%	228%
UNO	STATE	31077669	29344547	27058286	24948681	27214681	27666877	32948351
	FEES	18590309	22233131	24017695	25967481	29363710	31986866	32965664
	RATIO	167%	132%	113%	96%	93%	86%	100%
EUNICE	STATE	3078483	2980236	2778982	2367711	2721209	2771710	3371325
	FEES	593715	793528	1090425	1120425	1263890	1355396	1578649
	RATIO	519%	376%	255%	211%	215%	204%	214%
LSU-S	STATE	8200745	7960139	7328946	6624901	7360768	7438925	8581547
	FEES	3263740	3939290	4847237	5015177	5982001	6563228	6575967
	RATIO	251%	202%	151%	132%	123%	113%	130%
SUS BR	STATE	31193653	28489887	26894424	18658793	26976703	27515555	33636366
	FEES	8677050	9814763	13547828	13674839	16281765	14704060	15520159
	RATIO	359%	290%	199%	136%	166%	187%	217%
SUS	STATE	8714875	8755025	8220094	5371127	8045175	8148742	9153818

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		1985	1986	1987	1988	1989	1990	1991
NO	FEES	1924697	2073569	3754171	3783302	4561005	4872063	5960052
	RATIO	453%	422%	219%	142%	176%	167%	154%
SUS	STATE	4286493	4929851	4550047	2670795	3627878	3710632	3099682
SHREV	FEES	433727	465407	488678	529829	764750	820118	820118
	RATIO	988%	1059%	931%	504%	474%	452%	378%
NICHO	STATE	17301892	16756765	15307416	13596330	14794050	15055881	17057800
LLS	FEES	5800000	6966232	7772170	8506254	8849976	9266920	10879500
	RATIO	298%	241%	197%	160%	167%	162%	157%
GRAM	STATE	16936035	17092378	16758573	10107685	15754520	16208647	18087621
BLING	FEES	7409626	8764540	10604098	12103911	15041903	16130937	16842634
	RATIO	229%	195%	158%	84%	105%	100%	107%
LA	STATE	27513225	26615695	24629855	21827932	23438466	24184132	29061762
TECH.	FEES	11940000	14215000	14905320	15950320	20113922	19512532	18189904
	RATIO	230%	187%	165%	137%	117%	124%	160%
MC	STATE	26428468	17712161	16426739	14575294	15828920	15928793	18285342
NEESE	FEES	10012967	7472484	8670076	8600156	9328000	10539000	11081500
	RATIO	264%	237%	189%	169%	170%	151%	165%
NE	STATE	26428468	25586991	23630194	21321483	22489121	23766397	28711397
	FEES	10012967	11736280	12869420	14106000	15834475	19044339	19059780
	RATIO	264%	218%	184%	151%	142%	125%	151%

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		1985	1986	1987	1988	1989	1990	1991
NW	STATE	17496502	16991956	15527043	13068036	14364923	14441134	16699138
	FEES	5351250	5231250	5761816	8299035	8625912	11353838	11766580
	RATIO	327%	325%	269%	157%	167%	127%	142%
SE	STATE	18921661	18377669	16980869	15010007	16256921	18207624	21951290
	FEES	7046773	9012425	10391677	10391677	11282927	15179443	16029443
	RATIO	269%	204%	163%	144%	144%	120%	137%
SW	STATE	37626795	36477469	33642182	21066318	35040846	35418916	39967425
	FEES	14652550	16389495	18610315	19783671	23299779	24550694	24232943
	RATIO	257%	223%	181%	106%	150%	144%	165%
DELGADO	STATE	12445067	12084306	11285129	10155639	10471661	14307990	17175431
	FEES	5041850	5566850	6076750	6076750	6875650	NA	11600000
	RATIO	247%	217%	186%	167%	152%	NA	148%

APPENDIX B: CONSENT DECREE FUNDING FOR EACH LOUISIANA UNIVERSITY

INSTITUTION	CONSENT DECREE FUNDING YEAR		
	1985	1986	1987
LSU-B	50000	50000	50000
LSU-A	0	0	0
UNO	50000	50000	50000
EUNICE	0	0	0
LSU-S	0	0	0
SUS-B	5858080	5190239	5190694
SUS-NO	2360250	2514624	2429578
SUS-S	2072606	2238702	1930207
NICHOLLS	0	0	0
GRAMBLING	4581827	5091417	5735434
LA-TECH	66097	66097	66097
MCNEESE	0	0	0
NORTHEAST	0	0	0
NORTHWEST	0	0	0
SOUTHEAST	0	0	0
SOUTHWEST	0	0	0
DELGADO	0	0	0

APPENDIX C: FUNDING FOR OTHER LOUISIANA HIGHER EDUCATION UNITS

		1985	1986	1987	1988	1990	1991
PAUL M. HEBERT LAW CENTER	STATE	5011109	4738642	4118038	3963334	3958291	4576111
	FEES	1730750	2016750	2978550	3829000	3942675	4179145
	RATIO	290%	235%	138%	104%	100%	109%
	CONSENT	0	0	0	0	0	0
	REV.RATIO	290%	235%	138%	104%	100%	109%
	DIFFERENCE	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
SOUTHERN LAW CENTER	STATE	NA	2404501	2258397	2115375	3023451	NA
	FEES	NA	214363	456410	755019	816099	NA
	RATIO	NA	1122%	495%	280%	370%	NA
	CONSENT	NA	659976	368717	0	0	0
	REV.RATIO	NA	814%	414%	280%	370%	NA
	DIFFERENCE	NA	307.88%	80.79%	0.00%	0.00%	NA
LSU MEDICAL SCHOOL	STATE	121838376	120554476	112109555	109873399	109177894	85111811
	FEES	14175661	29388654	19770721	24146891	23664396	15116239
	RATIO	859%	410%	567%	455%	461%	563%
	CONSENT	1079067	1079067	1079067	0	0	0
	REV.RATIO	852%	407%	562%	455%	461%	563%
	DIFFERENCE	7.61%	3.67%	5.46%	0.00%	0.00%	0.00%

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		1985	1986	1987	1988	1990	1991
VET MED	STATE	13029467	12697130	11759243	11562310	12305906	NA
	FEES	2290533	2391723	2444713	2862353	2941721	NA
	RATIO	569%	531%	481%	404%	418%	NA
	CONSENT	90000	105000	115000	0	0	0
	REV.RATIO	565%	526%	476%	404%	418%	NA
	DIFFERENCE	3.93%	4.39%	4.70%	0.00%	0.00%	NA
LSU AG CENTER	STATE	43275141	48475951	45734655	43424399	45262658	49064272
	FEES	4531242	4741242	4741242	4741242	4741242	4741242
	RATIO	955%	1022%	965%	916%	955%	1035%
	CONSENT	0	0	0	0	0	0
	REV.RATIO	955%	1022%	965%	916%	955%	1035%
	DIFFERENCE	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

APPENDIX D: LOUISIANA HISTORICALLY BLACK UNIVERSITY ENROLLMENT BEFORE, DURING AND AFTER CONSENT DECREE IMPLEMENTATION

INSTITUTION	1976	1978	1980	1982	1984	1986	1988	1989	1990
GRAMBLING	4048	3623	3549	3970	4767	5224	6003	6205	6485
SOUTHERN-B	8995	8061	8372	9125	9784	9170	8968	8564	8941
SOUTHERN-NO	3311	2710	2574	2622	2870	3302	3434	3534	4064
SOUTHERN-S	974	692	723	694	621	756	1229	1043	1020

APPENDIX E:NATIONAL AND STATE HISTORICALLY BLACK UNIVERSITY ENROLLMENT CHANGE BEFORE, DURING AND AFTER CONSENT DECREE IMPLEMENTATION USING 1976 AS THE BASE YEAR

INSTITUTION	1978	1980	1982	1984	1986	1988	1989	1990
GRAMBLING	-10.499%	-12.327%	-1.927%	17.762%	29.051%	48.295%	53.286%	60.203%
SOUTHERN-B	-10.384%	-6.926%	1.445%	8.772%	1.946%	-0.300%	-4.792%	-0.600%
SOUTHERN-NO	-18.152%	-22.259%	-20.809%	-13.319%	-0.272%	3.715%	6.735%	22.742%
SOUTHERN-S	-28.953%	-25.770%	-28.747%	-36.242%	-22.382%	26.181%	7.084%	4.723%
NATIONAL	2.329%	4.916%	2.587%	2.236%	0.297%	7.700%	11.896%	15.808%

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